रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 33] नई दिल्ली, शुक्रवार, मई 18, 1984/वैशाख 28, 1906
No. 33] NEW DELHI, FRIDAY, MAY 18, 1984/VAISAKHA 28, 1906

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Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 18th May, 1984/Vaisakha 28, 1906 (Saka)

The following Act of Parliament received the assent of the President on the 18th May, 1984, and is hereby published for general information:—

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 1984

No. 25 OF 1984

[*18th May*, 1984]

An Act further to amend the Payment of Gratuity Act, 1972

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Payment of Gratuity (Amendment) Act, 1984.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

39 of 1972.

Amendment of section 2

2. In section 2 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act),—

(*a*) in clause (*e*),—

(*i*) for the words "one thousand rupees", wherever they occur, the words "one thousand and six hundred rupees" shall be substituted;

(*ii*) for the portion beginning with the words "but does not include any such person" and ending with the words and figures "or the Navy Act 1957.", the following shall be substituted namely:— 62 of 1957.

"and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.";

(*b*) for clause (*r*), the following clause shall be substituted, namely:—

'(*r*) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment;'.

Amendment of section 4.

3. In section 4 of the principal Act,—

(*a*) in sub-section (*1*), for the words "nominee or", the words "nominee or, as the case may be, the guardian of such nominee or" shall be substituted;

(*b*) in sub-section (*2*), in the second proviso, for the words "an employee employed in a seasonal establishment", the words "an employee who is employed in a seasonal establishment and who is not so employed throughout the year" shall be substituted;

(*c*) in sub-section (*6*), in clause (*b*), for the words "shall be wholly forfeited", the words "may be wholly or partially forfeited" shall be substituted;

(*d*) after sub-section (*6*), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

"(*7*) For the removal of doubts, it is hereby declared that the gratuity determined in accordance with the provisions of *Explanation* to clause (*e*) of section 2 shall be payable to an employee referred to in that clause notwithstanding that immediately, or at any time, before the termination of his employment in the manner specified in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*), he was in receipt of—

(*i*) where such termination of his employment is before the commencement of the Payment of Gratuity (Amendment) Act, 1984, wages exceeding one thousand rupees per month, and

(*ii*) where such termination of his employment is after such commencement, wages exceeding one thousand and six hundred rupees per month.".

Amendment of section 7.

4. In section 7 of the principal Act,—

(*a*) in sub-section (4),—

(*i*) in clause (*a*), the *Explanation* shall be omitted;

(*ii*) clauses (*b*), (*c*) and (*d*) shall be re-lettered as clauses (*c*), (*d*) and (*e*) respectively, and before clause (*c*) as so re-lettered, the following clause shall be inserted, namely:—

"(*b*) Where there is a dispute with regard to any matter or matters specified in clause (*a*), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.";

(*iii*) for clause (*c*) as so re-lettered, the following clause shall be substituted, namely:—

"(*c*) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.";

(*iv*) in clause (*e*) as so re-lettered, in sub-clause (*ii*), for the words "nominee or", the words "nominee or, as the case may be, the guardian of such nominee or" shall be substituted;

(*b*) in sub-section (7), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.".

Insertion of new sections 7A and 7B.

5. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Inspectors

"7A. (*1*) The appropriate Government may, by notification, appoint as many Inspectors, as it deems fit, for the purposes of this Act,

(2) The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide by such order, for the distribution or allocation of work to be performed by them under this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Powers of Inspectors.

7B. (1) Subject to any rules made by the appropriate Government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted thereunder, have been complied with, exercise all or any of the following powers, namely:—

(a) require an employer to furnish such information as he may consider necessary;

(b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act, applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made thereunder, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;

(d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or other document as he may consider relevant in respect of that offence;

(e) exercise such other powers as may be prescribed.

(2) Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. 45 of 1860

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973 shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.".

Amendment of section 13.

6. In section 13 of the principal Act, after the words "payable under this Act", the words "and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under section 5" shall be inserted.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1984